

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Sections of)
the Cable Television Consumer)
Protection and Competition Act)
of 1992 -- Rate Regulation)
)
Uniform Rate-Setting Methodology)

CS Docket No. 95-174

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COMMENTS OF ADELPHIA COMMUNICATIONS CORPORATION

Adelphia Communications Corporation ("Adelphia"), by its attorneys, hereby files the following comments regarding the Commission's Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.

In the NPRM, the Commission explores the implementation of an optional rate-setting methodology under which a cable operator could establish uniform rates for uniform cable service tiers in multiple franchise areas. More particularly, the Commission seeks comment on the type of methodology to be employed in establishing rates; on the size of the area within which a cable operator might set uniform rates; on the manner and timing of actual implementation of uniform rates; and on additional, related issues.

Adelphia generally supports the Commission's concept of enabling a cable operator to establish uniform rates for uniform services in multiple franchise areas. Clearly, the establishment of uniform rates over what constitutes, as a practical matter, a single geographic area makes common sense and should inure to the benefit of subscribers, franchising authorities

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and cable operators. In this regard, it should eliminate some artificial distorters of the marketplace and allow cable operators to offer services to subscribers in a more natural and understandable manner than is possible under the current regulatory scheme. It should also allow cable operators to respond more appropriately to other multi-channel video service providers that employ uniform rate-setting and marketing practices and allow subscribers to more clearly evaluate competitive alternatives. It should also do away with inefficient regulatory burdens.

At the same time, Adelphia believes that the Commission must not inadvertently allow additional artificial or unduly rigid constraints to prevent uniform rate-setting from becoming a realistic alternative for cable operators, thereby defeating the goals underlying the Commission's efforts here.

With these general comments as a background, Adelphia has the following comments on several of the Commission's specific proposals. The Commission notes, to begin with, that it proposes to allow a cable operator to establish uniform rates for uniform service offerings in multiple franchise areas regardless of whether the operator serves the multiple franchise areas with one integrated system (i.e., one "headend") or with multiple separate cable systems. Adelphia strongly endorses this proposal. As a practical matter, a cable operator may view multiple franchise areas as a single geographic region regardless of how it is technically capable of delivering services; indeed, it is at least likely that whether franchise areas are served by one integrated system or multiple systems is a product of the historical development of the cable industry unrelated to any sense of regional identity and, for that matter, may be a product of additional, unrelated considerations such as topography. Clearly, in this context it is irrelevant to franchising authorities and subscribers whether adjacent and neighboring areas are served from

one integrated system or multiple systems. Thus, the Commission should adopt the proposal in its NPRM; not to do so would be to create the kinds of artificial barriers to the realistic availability of uniform rate-setting that Adelphia mentioned above.

The Commission also seeks comment on whether it should specify that the Area of Dominant Influence ("ADI"), or some other region, as the appropriate region for the setting of uniform rates. Adelphia believes that, if the Commission's proposal is to have practical benefit, a cable operator should be able to itself determine the region in which to set uniform rates, based on the totality of the operator's operations and taking into account the operator's knowledge of the views and attitudes of franchising authorities and subscribers. For the Commission to rule otherwise would seem, again, to defeat the Commission's underlying goals; most particularly, the unavoidable administrative wrangling that seems likely to ensue would seem to create a significant disincentive for a cable operator to undertake uniform rate-setting. In addition, there appears to be little risk associated with enabling a cable operator to select the region, since the cable operator's rates will remain regulated.

Should the Commission decide, however, that an operator is not free to select the region in which to set uniform rates, then the Commission should be as flexible as possible in determining what is an appropriate region. Specifically, while the reach of a particular ADI might well be a factor to be considered in determining the parameters of a region, as a practical matter it is simply not always the case that a cable operator, franchising authorities and subscribers possess a sense of regional identity based on an ADI. In this regard, it seems worth noting that the significance to the cable industry of ADIs has increased only in the last few years, since the passage of the 1992 Cable Act, and that such a relatively newly-introduced factor

should not be the sole determinant of the scope of a region. Adelphia believes that it is more appropriate for the Commission to view the totality of a cable operator's operations in a region, taking into account many of the factors that the Commission has mentioned (e. g., number of channels; density of subscribers; existence of regional advertising). Adelphia also believes that, for the same reasons, the Commission should not arbitrarily prevent regions from crossing county or state lines.

The Commission also discusses two possible methodologies for permitting a cable operator to establish uniform rates for uniform packages of services offered to multiple franchise areas. As a threshold matter, Adelphia notes that the Commission should define the concept of "uniform packages of services" so as to allow for an appropriate degree of flexibility in this area. Again, as a result of historical factors, franchise requirements (which the Commission specifically acknowledges), and other factors, a cable operator may offer somewhat different services in neighboring or adjacent communities; for example, an operator utilizing multiple systems, and who has come to operate some but not all of the systems through the process of acquisition, may offer the same number of services to neighboring communities with a small variation in the identity of the services. In this and similar types of situations, the Commission should make clear that the operator is offering "uniform packages of services" and is able, therefore, to further the Commission's goals by establishing uniform rates. Not to do so would seem to be unduly rigid and, in addition, would seem to raise questions about regulation tied to the content of services.

As to the methodologies themselves that the Commission has suggested, Adelphia does not express a preference for one of them over the other. The Commission notes, however, that

both of its proposed methodologies will result in increases in CPST rates for some subscribers, and accordingly it seeks comment on whether it is appropriate to either limit the amount of increase a CPST subscriber must pay in a given year as a result of the institution of uniform rates or to phase in significant increases over a two-year period. Adelphia believes that, again, as a practical matter, this proposal undercuts the Commission's own goals by creating a significant disincentive for an operator to engage in uniform rate-setting. In addition, any adjustment between BST and CPST rates would take place within a regulated framework; to limit or to phase in increases would be to deny an operator returns to which it is entitled under the Commission's own rules. Such a result clearly seems to be unduly harsh and seems to raise, as well, constitutional takings questions.

The Commission also notes, quite rightly, that several timing circumstances may affect the implementation of a uniform rate-setting approach; for example, where an operator has submitted rate justifications, the operator could be subject to multiple local tolling orders of varying durations. Adelphia endorses the Commission's concept of allowing proposed uniform rates to take effect automatically after some period of time, subject to ultimate resolution in a later "true-up" process. This type of approach should allow an operator to utilize uniform rate-setting while also addressing concerns of franchising authorities.

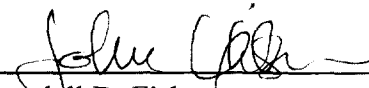
Finally, the Commission touches on issues that may arise because of the fact that PEG requirements and other franchise obligations vary between franchise areas, such that an operator's "franchise-related costs" vary among franchise areas. Adelphia believes that the Commission has suggested a workable solution in proposing that an operator be able simply to itemize and charge for franchise-related costs outside the uniform rate-setting formula. This type of approach would

address any concern about shifting costs from one community to another and would benefit a cable operator, franchising authorities and subscribers by making more clear to all parties the extent of the operator's obligations and/or commitments to provide services to specific communities.

Adelphia believes that the Commission's general concept allowing for uniform rate-setting can benefit all concerned interests. Adelphia urges the Commission to ensure that its concept is allowed to yield full practical benefits and to further Congress' intent to move away from a regulated, and toward a more openly competitive, marketplace.

Respectfully submitted,

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